

IN THE SENATE

SENATE BILL NO. 1101

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO DRIVING BUSINESSES; AMENDING TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 54, TITLE 54, IDAHO CODE, TO PROVIDE A SHORT TITLE AND DECLARATION OF POLICY, TO DEFINE TERMS, TO CREATE THE DRIVING BUSINESSES LICENSURE BOARD IN THE DEPARTMENT OF SELF-GOVERNING AGENCIES, TO PROVIDE FOR TERMS OF MEMBERS, QUALIFICATIONS, POWERS AND DUTIES, MEETINGS AND COMPENSATION, TO PROVIDE FEES, TO PROVIDE LICENSE REQUIREMENTS FOR DRIVING BUSINESSES, TO PROVIDE REQUIREMENTS FOR DRIVING INSTRUCTORS, TO PROVIDE CURRICULUM COMPONENTS FOR DRIVING BUSINESSES, TO PROVIDE FOR DISCIPLINARY ACTIONS AND TO PROHIBIT CERTAIN ACTS; AND AMENDING SECTION 67-2601, IDAHO CODE, TO CREATE THE CERTIFIED SHORTHAND REPORTERS BOARD AND THE DRIVING BUSINESSES LICENSURE BOARD IN THE DEPARTMENT OF SELF-GOVERNING AGENCIES.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 54, Title 54, Idaho Code, and to read as follows:

CHAPTER 54
DRIVING BUSINESSES

54-5401. SHORT TITLE – DECLARATION OF POLICY. (1) This chapter shall be known as the "Idaho Driving Businesses Act."

(2) In order to safeguard life, health and property, and to promote the public welfare, the business of driver education in this state is hereby declared to be subject to regulation in the public interest. It shall be unlawful for any person to offer private driver education for others in this state, as defined in the provisions of this chapter, unless such person has been licensed or is otherwise exempt under the provisions of this chapter. The right to engage in the business of driver education shall be deemed a personal right, based on the qualifications of the individual as evidenced by the license, and shall not be transferable.

54-5402. DEFINITIONS. As used in this chapter:

(1) "Board" means the Idaho driving businesses licensure board, which will act as the state regulatory body for driving businesses hereinafter provided in this chapter.

(2) "Driver education" means classroom instruction and behind-the-wheel driving time.

(3) "Driving business" means any driver education business, for the education of students in a classroom or motor vehicle, or both, which education shall not qualify a student for a commercial driver's license or which education is run by a church or synagogue or by a refugee program.

(4) "Driving instructor" means a person who is licensed by the board to teach the classroom instruction phase and behind-the-wheel training phase of automobile driver training. This term does not apply to any independent certified driving instructor who participates in a state or federal program directed at training or retraining persons in occupational skills, or to instructors who operate or work for public driving businesses that are overseen by the department of education.

(5) "License" means a document issued by the bureau of occupational licenses on behalf of the board officially documenting the individual's right to practice as a driving instructor or to operate a driving business within the state of Idaho.

(6) "Student" means a person aged fourteen and one-half (14 1/2) up to seventeen (17) years.

54-5403. BOARD – TERMS OF MEMBERS – QUALIFICATIONS – POWERS AND DUTIES – MEETINGS – COMPENSATION. (1) A driving businesses licensure board is hereby established in the department of self-governing agencies whose duty it shall be to administer the provisions of this chapter.

(2) The board shall consist of five (5) members appointed by the governor. The governor may consider recommendations for appointment to the board from the Idaho association of professional driving businesses, any association of driving businesses or from any individual residing in this state.

(3) Members shall begin their terms on July 1, 2009, and serve at the pleasure of the governor. Terms shall initially be staggered as follows: one (1) member whose term expires July 1, 2010; two (2) members whose terms expire July 1, 2011; and two (2) members whose terms expire July 1, 2012. Thereafter, each member of the board shall serve three (3) year terms. No member of the board may be appointed to more than two (2) consecutive terms. Members of the board shall hold office until the expiration of the term for which they were appointed and until their successors have been appointed and qualified. In the event of a vacancy other than expiration of a term, the governor shall appoint a replacement to fill the vacancy for the remainder of the unexpired term.

(4) Members of the board shall be citizens of the United States and residents of this state, and they shall have been licensed driving business owners with a minimum of five (5) years of continuous licensing prior to being nominated, and shall never have been the subject of a disciplinary action under the provisions of section 54-5409, Idaho Code.

(5) The board shall:

(a) Enforce the minimum standards and requirements as provided in this chapter and by rule adopted by the board. The board may promulgate such rules as may be necessary to carry out the provisions of this chapter in order to effectuate the purposes herein and for the orderly and efficient administration thereof, except as may be limited or prohibited by law and the provisions of this chapter;

(b) Accept or reject applications for licensing, business and instruction, and establish the fees to be charged for original application and renewal, subject to the provisions of this chapter;

(c) Hold and attend public meetings, and furnish copies of information to those engaged in the business and to the public upon request;

(d) Review and approve instructor training curriculum and programs; and

(e) Contract with the bureau of occupational licenses to provide administrative services.

(6) The board shall have the authority to conduct inspections and audits of any licensed driving business or any licensed instructor to ensure compliance with the laws and rules of the board. Failure to cooperate with an inspection or audit may constitute grounds for disciplinary action.

(7) The board shall meet within thirty (30) days after the appointment of its members and thereafter at such times as may be expedient and necessary for the proper performance of its duties, but it shall not meet less than once per year.

(8) At the board's first meeting, the members shall elect one (1) of their number to be chairman and then shall elect a chairman annually thereafter. The chairman may serve in such capacity for a one (1) year term and may not serve in such capacity for more than two (2) consecutive terms.

(9) A majority of the board shall constitute a quorum for the transaction of business.

(10) Each member of the board shall be compensated as provided by section 59-509(k), Idaho Code.

54-5404. FEES. (1) All fees received under the provisions of this chapter shall be paid to the bureau of occupational licenses and deposited in the state treasury to the credit of the occupational licenses fund. All costs and expenses incurred under the provisions of this chapter shall be a charge against and paid from said fund. Actual fees shall be set by administrative rule.

(2) An original application fee shall be no more than one hundred dollars (\$100).

(3) The fee for the original license, and the annual renewal, of any instructor license or apprentice permit shall be no more than one hundred dollars (\$100).

(4) A fee for the original license, and the annual renewal, of any driving business license shall be no more than nine hundred dollars (\$900).

(5) All licenses issued under the provisions of this chapter shall be subject to annual renewal. License renewal and reinstatement shall be in accordance with section 67-2614, Idaho Code.

(6) All fees are nonrefundable.

54-5405. DRIVING BUSINESSES – LICENSE REQUIREMENTS. (1) No private driver training business shall be established nor shall any existing business continue to operate unless the business applies for and obtains from the board a license which expires on the license issue date and must be renewed annually. The application for license shall include the name of the owner, criminal history background check, the location of the business, a certificate of occupancy, a certificate of automobile insurance, a list of certified instructors, proof of an annual vehicle check, board approved curriculum components and a course of instruction for teen drivers aged fourteen and one-half (14 1/2) to seventeen (17) years, which shall include the following:

(a) Not less than thirty (30) hours of classroom instruction;

(b) Not less than six (6) hours of behind-the-wheel practice driving; and

(c) Not less than six (6) hours of observation.

54-5406. DRIVING INSTRUCTORS – REQUIREMENTS. (1) Each person applying for a driving instructor license must complete an application provided by the bureau of occupational licenses that requires the applicant to be at least twenty-one (21) years of age, have a valid driver's license, a copy of a satisfactory driving record from the Idaho

1 transportation department, criminal history background check, medical certificate and copies of
2 required completed coursework and the board approved apprenticeship program.

3 (2) On and after July 1, 2010, every new applicant for a license pursuant to this chapter
4 shall have completed a board approved apprenticeship training program of not less than sixty
5 (60) hours of classroom instruction and one hundred eight (108) hours of behind-the-wheel
6 training.

7 54-5407. CURRICULUM COMPONENTS FOR DRIVING BUSINESSES. The
8 curriculum components for driving businesses shall be approved by the board and reviewed
9 annually and the curriculum components must accompany any original application for a license.

10 54-5408. DISCIPLINE. (1) Grounds for discipline. The board shall have the power to
11 deny any application for or renewal of a driving instructor license or to revoke, suspend or
12 otherwise sanction any such license issued pursuant to this chapter and to limit or restrict the
13 practice of any driving instructor upon a determination by the board that the person:

14 (a) Was convicted, found guilty, received a withheld judgment or suspended sentence in
15 this or any other state, of any action constituting a felony or of a crime involving moral
16 turpitude; or

17 (b) Violated the provisions of this chapter or rules, standards of conduct and practice, or
18 any ethical codes as may be adopted by the board; or

19 (c) Is or has been negligent or reckless in the practice of driver education; or

20 (d) Has had any license, certificate or registration to work as a driving instructor
21 suspended or revoked in any jurisdiction. A certified copy of the order of suspension or
22 revocation shall be prima facie evidence of such suspension or revocation.

23 (2) Every person subject to disciplinary proceedings shall be afforded an opportunity for
24 hearing.

25 (a) All proceedings hereunder shall be in accordance with chapter 52, title 67, Idaho
26 Code.

27 (b) Hearings shall be conducted by the board or by persons appointed by the board to
28 conduct hearings and receive evidence.

29 (3) The board may, pursuant to an order of discipline, require the person to pay all
30 or part of the costs and fees incurred by the board in proceedings upon which the order was
31 entered.

32 (4) The board may, pursuant to an order of discipline, require the person to pay an
33 administrative fine not to exceed one thousand dollars (\$1,000) for each violation identified in
34 the order.

35 54-5409. CERTAIN ACTS PROHIBITED. (1) The following acts shall be unlawful and
36 punishable as a misdemeanor:

37 (a) The violation of any of the provisions of this chapter;

38 (b) Permitting any person in one's employ, supervision or control to practice as a driving
39 instructor unless that person has complied with the provisions of this chapter;

40 (c) Practicing or offering to practice any of the occupations defined in this chapter, unless
41 licensed as herein provided;

42 (d) Maintaining or operating a driving business unless such business is licensed as herein
43 provided.

(2) The board may seek injunction against any person who practices as a driving instructor or who operates a driving business in violation of the provisions of this chapter. In the event a permanent injunction is entered against such person, or plea or verdict of guilty is entered in any criminal matter, the board may impose a civil penalty in the amount of all costs and fees incurred by the board in prosecuting the matter.

SECTION 2. That Section 67-2601, Idaho Code, be, and the same is hereby amended to read as follows:

67-2601. DEPARTMENT CREATED – ORGANIZATION – DIRECTOR – BUREAU OF OCCUPATIONAL LICENSES CREATED. (1) There is hereby created the department of self-governing agencies. The department shall, for the purposes of section 20, article IV of the constitution of the state of Idaho, be an executive department of the state government.

(2) The department shall consist of the following:

(a) Agricultural commodity commissions: Idaho apple commission, as provided by chapter 36, title 22, Idaho Code; Idaho bean commission, as provided by chapter 29, title 22, Idaho Code; Idaho beef council, as provided by chapter 29, title 25, Idaho Code; Idaho cherry commission, as provided by chapter 37, title 22, Idaho Code; Idaho dairy products commission, as provided by chapter 31, title 25, Idaho Code; Idaho pea and lentil commission, as provided by chapter 35, title 22, Idaho Code; Idaho potato commission, as provided by chapter 12, title 22, Idaho Code; the Idaho wheat commission, as provided by chapter 33, title 22, Idaho Code; and the Idaho aquaculture commission, as provided by chapter 44, title 22, Idaho Code.

(b) Professional and occupational licensing boards: Idaho state board of certified public accountancy, as provided by chapter 2, title 54, Idaho Code; board of acupuncture, as provided by chapter 47, title 54, Idaho Code; board of architectural examiners, as provided by chapter 3, title 54, Idaho Code; office of the state athletic director, as provided by chapter 4, title 54, Idaho Code; board of barber examiners, as provided by chapter 5, title 54, Idaho Code; board of commissioners of the Idaho state bar, as provided by chapter 4, title 3, Idaho Code; board of chiropractic physicians, as provided by chapter 7, title 54, Idaho Code; Idaho board of cosmetology, as provided by chapter 8, title 54, Idaho Code; Idaho counselor licensing board, as provided by chapter 34, title 54, Idaho Code; state board of dentistry, as provided by chapter 9, title 54, Idaho Code; state board of dentistry, as provided by chapter 33, title 54, Idaho Code; state board of engineering examiners, as provided by chapter 12, title 54, Idaho Code; state board for registration of professional geologists, as provided by chapter 28, title 54, Idaho Code; speech and hearing services licensure board, as provided by chapter 29, title 54, Idaho Code; Idaho physical therapy licensure board, as provided by chapter 22, title 54, Idaho Code; Idaho state board of landscape architects, as provided by chapter 30, title 54, Idaho Code; liquefied petroleum gas safety board, as provided by chapter 53, title 54, Idaho Code; state board of medicine, as provided by chapter 18, title 54, Idaho Code; state board of morticians, as provided by chapter 11, title 54, Idaho Code; board of naturopathic medical examiners, as provided by chapter 51, title 54, Idaho Code; board of nurses, as provided by chapter 14, title 54, Idaho Code; board of examiners of nursing home administrators, as provided by chapter 16, title 54, Idaho Code; state board of optometry, as provided by chapter 15, title 54, Idaho Code; Idaho outfitters and guides board, as provided by chapter 21, title 36, Idaho Code; board of pharmacy, as provided by

chapter 17, title 54, Idaho Code; state board of podiatry, as provided by chapter 6, title 54, Idaho Code; Idaho state board of psychologist examiners, as provided by chapter 23, title 54, Idaho Code; Idaho real estate commission, as provided by chapter 20, title 54, Idaho Code; real estate appraiser board, as provided by chapter 41, title 54, Idaho Code; board of social work examiners, as provided by chapter 32, title 54, Idaho Code; the board of veterinary medicine, as provided by chapter 21, title 54, Idaho Code; the board of examiners of residential care facility administrators, as provided by chapter 42, title 54, Idaho Code; the certified shorthand reporters board, as provided by chapter 31, title 54, Idaho Code; the driving businesses licensure board, as provided by chapter 54, title 54, Idaho Code; and the board of drinking water and wastewater professionals, as provided by chapter 24, title 54, Idaho Code.

(c) The board of examiners, pursuant to section 67-2001, Idaho Code.

(d) The division of building safety: building code board, chapter 41, title 39, Idaho Code; manufactured home advisory board, chapter 21, title 44, Idaho Code; electrical board, chapter 10, title 54, Idaho Code; public works contractors board, chapter 19, title 54, Idaho Code; plumbing board, chapter 26, title 54, Idaho Code; public works construction management, chapter 45, title 54, Idaho Code; the heating, ventilation and air conditioning board, chapter 50, title 54, Idaho Code; and modular buildings, chapter 43, title 39, Idaho Code.

(e) The division of veterans services to be headed by a division administrator who shall be a nonclassified employee exempt from the provisions of chapter 53, title 67, Idaho Code. The administrator of the division shall administer the provisions of chapter 2, title 65, Idaho Code, and chapter 9, title 66, Idaho Code, with the advice of the veterans affairs commission established under chapter 2, title 65, Idaho Code, and shall perform such additional duties as are imposed upon him by law.

(3) The bureau of occupational licenses is hereby created within the department of self-governing agencies.